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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,252	01/10/2006	Matthias Pfuller	344/1/109	8000

170 7590 09/24/2007
RICHARD M. GOLDBERG
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HACKENSACK, NJ 07601

EXAMINER

NDUBIZU, CHUKA CLEMENT

ART UNIT	PAPER NUMBER
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3749

MAIL DATE	DELIVERY MODE
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09/24/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,252	Applicant(s) PFULLER, MATTHIAS	
	Examiner Chuka C. Ndubizu	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>011006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to because Figure 3 is a freehand drawing and it is not clear. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1,2, 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Faltersack 3,636,938. Faltersack teaches the invention as claimed (figs. 1-5) a take-apart picnic grill comprising: two hollow profiles 17, 16 adapted to be disposed parallel to each other (fig 1), a plurality of rods 20 to connect the two hollow profiles so as to form a grilling surface (fig 1), and the hollow profiles including first 16 and second 17 tubes respectively, each with a diameter, the diameter of the first tube being sufficiently larger than the diameter of the second tube to allow the second tube with the smaller diameter to be inserted inside the first tube with the larger diameter for transport purposes (column 2 line 21-34), (claim 2) wherein the second tube with the smaller diameter has an inner diameter which is sized in such a way as to accommodate all other parts of the grill (column 2 line 25-27); (claim 7) the picnic grill further comprising a notch at an end of one of the tubes 17 (where wing nut is positioned) capable of being used for cleaning the rods which form the grilling surface; (claim 8) the grill further comprising caps 27 for sealing both ends of the first tube with the larger diameter; (claim 9) wherein the first tube with the larger diameter is sealed (by cap) at one end and further comprising a cap 27 for closing off the other end of the first tube (figs 3 and 5); (claim 10) wherein all the parts of the picnic grill are made from stainless steel (column 1 line 54); (claim 11) wherein the tubes each has a circle cylindrical cross section (see fig 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Faltersack in view of Wang 6,155,162. Faltersack teaches the invention as claimed and as discussed above.

However, Faltersack does not teach a collapsible grill wherein, one of the tubes has holes in the a side facing the other tube to accommodate one end of the rods serving as the grilling surface, and top quarter of a circumference of the other tube facing the one tube has slots to match the number of holes for opposite ends of the rods.

Wang discloses a grill rack (fig 1) with two rectangular brackets 4 for holding the rods 17, wherein one of the brackets has holes 42 in the side facing the other bracket to accommodate one end of the rods serving as the grilling surface, and top quarter of

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a circumference of the other bracket facing the one bracket has slots 40 (see fig 1) to match the number of holes for opposite ends of the rods. Examiner note that the shape of rectangular bracket versus the shape of the tube is irrelevant with regard to the objective of the invention; namely to facilitate the task of assembly. In re *Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) MPEP 2144.04 IV B.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Faltersack's grill by using holes on one side and slot on the other in order to facilitate assembly and disassembly of the grill surface.

3. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faltersack in view of Earl 3,461,634 and further in view of Lorbacher 3,191,592. Faltersack teaches the invention as claimed and as discussed above.

However, Faltersack does not teach a collapsible grill wherein, one of tubes has holes in a side facing the other tube to accommodate one end of the rods which form the grilling surface, and the other tube includes, an unbroken longitudinal slit on the side facing the one tube, and slots in one edge of the slit in which to place opposite ends of rods; (claim 5) wherein a top quarter of the a circumference of both tubes is provided with slots on a side facing the other tube; (claim 6) wherein both tubes include an unbroken longitudinal slit in side facing the other tube, and slots in one edge of the slit in which to place the rods.

Earl discloses a collapsible grill (fig 1-7) wherein both tubes 24 and 26 have unbroken longitudinal slits (see figs 3 and 4) on them for accommodating rods 34 (fig 1)

Lorbacher discloses a grill surface (figs 1-4) including channels 24 and 25. 24 has holes 28 on it to take one of the rods. 25 has a slit (when covered by 31) and the slit has slots 30 to take the other ends of the rods.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Faltersack's grill by using holes on one side and slit with slot on the other or slit with slot on both sides in order to facilitate assembly of the rods and retaining them in position as taught by Lorbacher (column 2 line 69-70).

With regard to claim 5 having slots on both tubes instead of the other combinations discussed above is a matter of design choice. Any of the other combinations would work successfully and the applicant does not disclose any particular significance of using slots on both tubes.

Conclusion


The prior art made of record in the attached USPTO 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuka C. Ndubizu whose telephone number is 571-272-6531. The examiner can normally be reached on Monday - Friday 8.30 - 4.30.

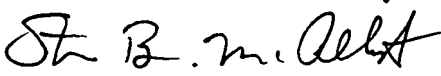
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Chuka C Ndubizu
Patent Examiner
AU 3749

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STEVE MCALLISTER
SUPERVISORY PATENT EXAMINER